

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
The Implementation of the Affordable)	WC Docket No. 21-450
Connectivity Program)	

COMMENTS OF EDUCATIONSUPERHIGHWAY

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I. INTRODUCTION AND SUMMARY

EducationSuperHighway appreciates that Congress and the Commission have recognized the need to address the broadband affordability gap that keeps over 18 million households from obtaining a home broadband connection that can be used for telework, remote learning and telehealth. Unlike the Emergency Broadband Benefit (“EBB”), which was established to help people impacted by the pandemic afford their broadband bills, Congress has established the Affordable Connectivity Program (“ACP”) to remove affordability as a barrier to connecting unconnected households and close the digital divide for tens of millions of Americans.

Given this change in objective, the expectation that the Affordable Connectivity Program will last for at least five years, and the decision by Congress to provide resources for outreach to the unconnected, the Commission must alter several key aspects of the rules it established for the Emergency Broadband Benefit Program (“EBBP”). For a variety of reasons, the Emergency Broadband Benefit did very little to close the digital divide, suffering from the same adoption problems with unconnected households that have limited the impact of previous federal broadband subsidy programs. The vast majority of Emergency Broadband Benefit subscribers are households that already had home broadband subscriptions or used the benefit to pay for their mobile phone subscriptions. As a result, it appears that no more 65,000 unconnected households per month were connected to robust, high-speed home broadband connections that can be used for telework, remote learning and telehealth. If we continue at this pace, it will take 23 years to close the broadband affordability gap.

To change this trajectory, and meet Congress’ objectives for the Affordable Connectivity Program, the Commission must start by establishing that the primary goal of the Affordable

Connectivity Program is to close the broadband affordability gap. In addition, the Commission should determine that it will evaluate the program's success by measuring the number of unconnected households that become connected as a result of enrolling in the Affordable Connectivity Program. The Commission must then implement rules for the Affordable Connectivity Program that address the three key barriers that stand in the way of widespread adoption of federal broadband subsidy programs by unconnected households: awareness, trust and enrollment challenges. This can be accomplished by taking the following actions:

1. Make it easier for households residing in multiple dwelling units to access home broadband by enabling the Affordable Connectivity Program to support the ongoing costs of Wi-Fi networks in multiple dwelling units in conjunction with deployment funded by the Broadband Equity Access and Development Program ("BEAD").
2. Allow state and local governments, trusted institutions and approved non-profit organizations that are unaffiliated with service providers to submit verification requests through the National Verifier on behalf of households even if the households' consumers are not physically present.
3. Invest in direct, data driven outreach to unconnected households to increase awareness of the Affordable Connectivity Program.
4. Provide resources to state and local governments, trusted institutions and non-profit organizations to conduct outreach to unconnected households and assist them in enrolling in the National Verifier and Affordable Connectivity Program.
5. Publish an anonymized, open data set of all Affordable Connectivity Program enrollments to enable the Commission and other stakeholders to track progress in enrolling unconnected households in the Affordable Connectivity Program and determine if they are obtaining broadband connections that can be used for telework, remote learning and telehealth.

II. THE GOAL OF THE AFFORDABLE CONNECTIVITY PROGRAM SHOULD BE TO CLOSE THE DIGITAL DIVIDE BY CLOSING THE BROADBAND AFFORDABILITY GAP

The Emergency Broadband Benefit was a critical program that Congress established to help people impacted by the pandemic afford their broadband bills. Congress has now established the Affordable Connectivity Program with a different, more ambitious goal—to close the broadband affordability gap in this country. This is clear from the changes Congress made in the Infrastructure Investment and Jobs Act to eliminate households that “experienced a substantial loss of income” during the COVID-19 pandemic and households that met a provider’s existing COVID-19 benefit program from eligibility in the Affordable Connectivity Program.¹ It is also clear from statements by key Congressional leaders. As Chairwoman Cantwell recently stated during the Senate Commerce Committee hearing considering the nomination of Alan Davidson as NTIA Director, “mapping that has been presented to our committee from the private sector that already shows that 70% of the problem is on affordability, not necessarily on access in hard to serve areas.”² To achieve Congress’ objective, the Affordable Connectivity Program must be designed to reach the millions of Americans who remain unconnected today because they cannot afford broadband.

Unfortunately, the Emergency Broadband Benefit did very little to close the digital divide by connecting the unconnected. As EducationSuperHighway noted in its comments to the Commission during the Emergency Broadband Benefit rule making, the provider-centric nature

¹ Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. (2021) div. F, tit. V, § 60502(b)(1)(A)(i)(II), <https://www.congress.gov/bill/117th-congress/house-bill/3684/text> (“Infrastructure Act”) (removing these EBB eligibility criteria from the ACP).

² Confirmation Hearing for FCC and Commerce Department Nominees: Hearing Before the S. Comm. on Commerce, Science & Transportation, 117th Cong. (2021) (statement of Maria Cantwell, Chair, Senate Committee on Commerce, Science & Transportation).

of the Emergency Broadband Benefit, combined with eligibility of bundled broadband plans on mobile phones and a lack of resources to identify and conduct outreach to unconnected households, resulted in the vast majority of Emergency Broadband Benefit subscribers being households that already had home broadband subscriptions or used the benefit to pay for their mobile phone subscriptions.³

We cannot afford the same result with the Affordable Connectivity Program. The \$14.2 billion investment Congress is making in the Affordable Connectivity Program is the Commission's chance to prove that by eliminating affordability as a barrier, we can close the digital divide for tens of millions of Americans. To meet this mandate, the Commission must establish that the primary goal of the Affordable Connectivity Program is to close the broadband affordability gap and, as discussed further below,⁴ should establish metrics to measure the number of unconnected households that become connected as a result of the Affordable Connectivity Program. This is the basis on which the success of the Affordable Connectivity Program will be measured and the basis upon which Congress will decide whether to renew funding for the program when its \$14.2 billion investment runs out.

The Emergency Broadband Benefit program was an urgent funding program that, for good reason, the Commission had to implement with expediency. To fulfill the Infrastructure Act's congressional mandate, the FCC must design the ACP to achieve real progress in closing the affordability gap.

³ See Comments of EducationSuperHighway at 4-5, WC Docket No. 20-445 (filed Jan. 19, 2021); *see also, e.g.*, Letter from Nicole Tupman, Midcontinent Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-445, Attach. at 2 (filed Jun. 8, 2021) (noting that 4% of Midcontinent's EBB subscribers are new customers).

⁴ See Section IV.

A. The Broadband Affordability Gap Is the Largest Portion of the Digital Divide

Approximately 28.2 million of the 122.8 million households in the United States do not have high-speed broadband.⁵ The historical narrative has been that these households are unconnected because they do not have access to high-speed Internet infrastructure. However, the reality is that 18.1 million of these households, home to 47 million people, are simply offline because they cannot afford an available Internet connection. This contrasts with just 7.1 million households who lack access to broadband infrastructure.

This broadband affordability gap is present in every state and is the largest portion of the digital divide in 43 states. It impacts virtually every community in America—urban, suburban, small town and rural—and has become one of the primary inhibitors of access to economic security and opportunity. It is a reality centered in our nation’s poorest communities and disproportionately impacts people of color. You are more likely to be offline if you are a low-income, Black, or Latinx American. You are also more likely to be offline if you have less than a high school education.⁶

Households in America’s most unconnected communities and those with less than a high school education are precisely the households who most need a broadband connection to find better jobs, educate their children, connect with affordable healthcare and access the social safety

⁵ No Home Left Offline: Bridging the Broadband Affordability Gap, EducationSuperHighway, 3, (2021), [No-Home-Left-Offline-Report_EducationSuperHighway2021.pdf](#).

⁶ *Id.* at 9, 10. Unconnected communities--communities where 25% or more households lack broadband access--represent 67% of all households where Internet access is available but not subscribed because of cost. The households in these communities are disproportionately poor (44.9% below the 200% poverty threshold), Black or African American (21.1%), and Latinx (27.6%). Individuals without a high school degree are also twice as likely to be unconnected than those who have attained that level of education. *Id.*

net. Without home broadband, these households are significantly disadvantaged in the pursuit of economic security and opportunity. As the Commission concluded in its Emergency Broadband Benefit rulemaking, these households need a broadband connection “that permits households to rely on these connections for the purposes essential to participating in society during the pandemic, such as telework, remote learning, and telehealth.”⁷

B. Adoption Issues, Particularly Among Unconnected Households, Have Resulted in Under-Utilization of the Emergency Broadband Benefit

Despite significant efforts to make enrolling in the Emergency Broadband Benefit easier than the Lifeline program, and unprecedented outreach efforts by the Commission and others, the Emergency Broadband Benefit has suffered from the same adoption problems that have limited the impact of previous federal broadband subsidy programs on closing the digital divide. As of the end of November 2021, only 21.7% of the estimated 37 million households eligible for the Emergency Broadband Benefit had enrolled in the program. Even when combined with current enrollments in the Lifeline program, the Emergency Broadband Benefit has made little progress in driving adoption of federal broadband subsidies. At the end of November, 2021, the combined enrollment in the EBB and the Lifeline program was an estimated maximum of 26% of eligible households⁸ as compared to 24% of eligible households that had enrolled in the Lifeline program prior to the start of the pandemic.

The lack of progress in increasing adoption rates is primarily due to the slow progress in enrolling unconnected households. Though the Commission declined to collect data from ISPs

⁷ *Emergency Broadband Benefit Program*, Report and Order, 36 FCC Rcd. 4612, 4647 ¶ 73 (2021) (“*EBB Order*”).

⁸ The maximum percentage of eligible households assumes there is no overlap between Lifeline and EBB subscribers. This seems unlikely and suggests the actual adoption percentage is lower.

on whether EBB enrollments were existing or new subscribers, we can infer from the method of verification data that the majority of EBB households are those with existing home broadband or bundled service offerings. Nearly three quarters of EBB subscribers were enrolled in the program based on their enrollment in the Lifeline program (52%) or using an alternative verification method that ISPs already had in place for existing subscribers of their low income affordable broadband plans (22%). Only 1.8 million new households had been enrolled in the EBB Program using the National Verifier and 447,000 of these households qualified based on a substantial loss of income. This suggests that the EBB is increasing adoption of federal broadband subsidy programs at a rate of less than 200,000 households per month. Moreover, because over two-thirds (67.9%) of households enrolled in the EBB are using their benefit on a mobile broadband plan (which we suspect are overwhelmingly mobile phone based bundled service offerings), the pace at which the EBB is truly closing the digital divide, by connecting households to robust, high-speed home broadband connections that can be used for telework, remote learning and telehealth, is likely no more than 65,000 households per month.

If this pace continues with the Affordable Connectivity Program, it will take twenty three years to close the broadband affordability gap and less than four million unconnected households will be connected during the expected five year life of the ACP. This is an unacceptable outcome for the nation, and an outcome that will be unlikely to persuade Congress to continue the ACP when the program's funding runs out.

III. THE COMMISSION SHOULD DESIGN THE ACP TO REDUCE THE BARRIERS THAT PREVENT UNCONNECTED HOUSEHOLDS FROM ENROLLING IN FEDERAL BROADBAND SUBSIDY PROGRAMS

There are three overarching challenges that stand in the way of widespread adoption of federal broadband subsidy programs for households on the wrong side of the broadband affordability gap:

1. Awareness. As seen in a recent national survey of low- and lower-middle income households, only 25% of households had even heard of the Emergency Broadband Benefit program.⁹ However, two-thirds of these households were interested in enrolling in the EBB once they knew about the program, highlighting the importance of building awareness of the Affordable Connectivity Program. These findings are consistent with a recent GAO report on awareness of the National Verifier, which found that while most consumers were required to use the National Verifier to enroll in the Lifeline program, stakeholders reported that many consumers are not aware of the Verifier or Lifeline, continuing a long-standing Lifeline awareness problem that GAO has reported on since 2015.¹⁰
2. Trust. As is true with many government programs, a significant number of unconnected households, particularly those that are undocumented, are concerned about sharing personal information as part of the enrollment process. These same households are also concerned that the risk of enrolling is not worth the benefit, as they are skeptical that federal broadband subsidies will actually cover the cost of their home broadband connection or they will be saddled with unexpected costs by ISPs. Finally, because of negative experiences with ISPs concerning credit checks, disconnections and bad debt collection, the provider-centric nature of the EBB and ACP programs, in which ISPs are required to enroll eligible households, creates additional trust barriers that stand in the way of enrolling unconnected households.
3. Enrollment Challenges. Using the National Verifier to enroll in Lifeline and the EBB is a challenging process for unconnected households. These challenges begin with the fact

⁹ Affordability and the Digital Divide: The First in a 3-Part Series on Digital Connectivity During the Pandemic, A National Survey of Low- and Lower-Middle Income Households, EveryoneOn & John B. Horrigan, PhD, 6, (2021), [EveryoneOn+Report+on+Affordability+&+the+Digital+Divide+2021.pdf \(squarespace.com\)](https://www.everyoneon.org/reports/affordability-and-the-digital-divide-2021.pdf).

¹⁰ *Telecommunications: FCC Has Implemented the Lifeline National Verifier but Should Improve Consumer Awareness and Experience*, U.S. Gov't Accountability Off. (Jan. 28, 2021), <https://www.gao.gov/products/gao-21-235> (last visited Dec. 8, 2021).

that using the National Verifier online portal requires an eligible household to have access to an Internet connection. Clearly this places an undue burden on unconnected households who must either spend hours traveling to and waiting for a public Internet connection or use a paper enrollment form that subjects them to a manual approval process that the GAO noted has resulted in two-thirds of applicants abandoning their applications.¹¹ In addition, unconnected households face challenges providing the necessary documentation to prove eligibility as well as language barriers and difficulties understanding the complex application process.

To meet Congress' goals and maximize the number of unconnected households that are connected using the ACP, the Commission needs to implement the ACP in a manner that overcomes these barriers to adoption. EducationSuperHighway urges the Commission to take the following steps to remove these barriers and drive adoption by homes that remain unconnected today. First, the Commission should implement the ACP to remove barriers currently hindering adoption by eligible households in low-income multiple dwelling units ("MDUs"). Specifically, the Commission should clarify ACP requirements so that the program works in tandem with the Infrastructure Act provisions permitting funds for low-income MDU Wi-Fi deployments. Second, the Commission should make it easier for households to enroll in the National Verifier and ACP by allowing state and local governments and approved non-profit organizations that are unaffiliated with service providers to submit verification requests through the National Verifier as authorized agents of those households and with their consent. Third, the Commission should invest in data-driven, direct outreach to unconnected households to increase program awareness. Fourth, the Commission should provide resources to trusted institutions to conduct outreach to unconnected households and assist them in enrolling in the National Verifier and ACP.

¹¹ *Id.*

A. Clarifying the ACP Requirements for Multiple Dwelling Units Will Expand Broadband Access to Unserved Households

One of the most powerful tools for increasing broadband adoption is making free Wi-Fi available in low-income multiple dwelling units. EducationSuperHighway estimates that as many as 4.5 million unconnected households, representing approximately 12 million individuals, live in low-income apartment buildings. Indeed, getting service to these households is a priority in the Infrastructure Act. In designing the \$42.5 billion Broadband Equity Access and Development Program, Congress explicitly made funding eligible for the deployment and installation of Wi-Fi networks in low-income multi-family residential buildings.¹² Congress did so because it recognized that 20-25% of unconnected households live in low-income apartment buildings and that the deployment of these cost-effective networks met Congress' priority for the deployment of high-speed networks that serve high poverty areas and could be deployed rapidly. In addition, Congress understood that by providing access to free or reduced cost Wi-Fi networks where unconnected households live, it could overcome adoption issues that have hindered the success of federal broadband subsidy programs. Like Wi-Fi networks in hotels, airports and coffee shops, low- or no-cost apartment Wi-Fi demonstration projects have shown rapid adoption by households with little outreach or education required. Consumers know that to access the Internet, they simply connect to the SSID of the network and enter their password.

¹² Infrastructure Act at div. F, tit. I, § 60102(f)(4) (providing that states may use BEAD grant funds to award subgrants for “installing internet and Wi-Fi infrastructure or providing reduced-cost broadband within a multi-family residential building, with priority given to a residential building that—(A) has a substantial share of unserved households; or (B) is in a location in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line . . . is higher than the national percentage of such individuals”).

With capital available from BEAD to fund the deployment and installation of apartment Wi-Fi networks, the primary barrier to the deployment of high-speed Wi-Fi networks in low income apartment buildings is the ongoing cost of the building Internet connection required to connect these Wi-Fi networks to the Internet. Owners of low-income apartment buildings (including housing authorities) are excited about providing low-income households with the same Wi-Fi amenity now available in many high-income apartment buildings. Unfortunately, many owners express concern that the low rents they receive make it difficult for them to pay for the ongoing costs of these networks, even when the up-front costs are funded by grants. To address this, the Commission should design the ACP to work in tandem with BEAD grant funding for building-wide Wi-Fi for concentrated populations of eligible unconnected households in low-income MDUs.

The Commission has already laid the groundwork for this in the EBB Program. In its *EBB Order*, the Commission wisely allowed eligible households purchasing Internet access through bulk billing arrangements in multi-family dwellings to apply for and use the EBB to pay their landlord for their Internet service.¹³ The Commission recognized that “eligible households are at risk of missing out on broadband services supported by the EBB Program because they may not be directly billed by the participating provider and may not have a typical relationship with the participating provider.”¹⁴ The Commission required that the service provider be approved in the EBB Program, that each household be eligible for the EBB and consent to have their benefit applied to their service, that service providers maintain documentation of the

¹³ *EBB Order* at 4633 ¶ 45.

¹⁴ *Id.*

households' consent, and that the service provider maintain documentation showing that the amount the provider claims from the EBBP is passed through to the eligible households.¹⁵

The Commission also stated, however, that “[i]n cases where the household does not pay a fee for the service, either to the provider or a bulk purchaser/aggregator, but a fee is paid by another entity, the service cannot be claimed for EBB Program support.”¹⁶ This unclear statement has caused confusion and has limited EBB adoption in low-income buildings. To address this, the Commission should make clear that ACP funds can be used to pay the ongoing monthly costs of providing building-wide Wi-Fi to eligible households in low-income MDUs, and should affirmatively encourage this form of access for low-income MDUs by simplifying and clarifying the requirements in the following ways.¹⁷

First, the Commission should affirm that it is not necessary for the eligible household in an MDU to be charged for the service when the ACP benefit covers the full monthly subscriber cost. In other parts of the *EBB Order*, the Commission made clear that EBB subscribers could have the entire monthly cost of their eligible service covered by the EBB.¹⁸ Affirming that the same is true in the ACP—in bulk billing situations and MDUs as well as generally—will remove uncertainty and encourage service providers and bulk purchasers to offer ACP service to unconnected Americans.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Wireline Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program*, Public Notice, DA 21-1453, WC Docket No. 21-450, ¶ 57 (WCB rel. Nov. 18, 2021) (“*ACP Notice*”).

¹⁸ *See, e.g., EBB Order* at 4671 ¶ 128 (required monthly disclosures “either in the form of a monthly bill, or other monthly communication if the benefit covers the entire rate of the qualified plan”).

Second, in the situation where the cost of eligible service is covered entirely by the ACP benefit, the service provider or bulk purchaser might not send a monthly bill to the household. In these cases, the monthly bill is not available to serve as documentation that a bulk purchaser has passed through the benefit amount to the eligible household, as is required in the EBBP. EducationSuperHighway fully agrees that the benefits of the EBBP and the ACP must flow through to their intended recipients—eligible households. But this could be documented in ways other than a monthly bill for eligible households in a low-income MDU with a Wi-Fi deployment. To better enable eligible households in low-income MDUs to receive supported broadband services, the Commission can clarify that service providers may rely on a certification from the bulk purchaser that the discount the bulk purchaser receives from the service provider is fully passed through to the eligible households. For example, in a low-income MDU with 50 eligible households who are enrolled in the ACP and have consented to have their benefits applied to a bulk-purchased Wi-Fi offering, the bulk purchaser—whether a landlord, public housing agency, or building owner—can certify to the service provider that the discount off the price charged by the service provider to the bulk purchaser is fully passed through to those 50 households.

Third, the Commission should determine that service providers are providing “broadband internet access service”¹⁹ within the meaning of the Infrastructure Act when they provide a high-capacity Internet link to an MDU building that supports mass market Wi-Fi service to individual eligible households. As relevant here, broadband Internet access service is defined as a “mass market retail service ... that provides the capability to transmit data to and receive data

¹⁹ Consolidated Appropriations Act, 2021, H.R. 133, 116th Cong. (2020), div. N, tit. IX, § 904(a)(1) (referring to the definition of broadband internet access service in 47 C.F.R. § 8.1(b)).

from all or substantially all internet endpoints ... [or] a functional equivalent.”²⁰ And the Commission has explained that a “mass market” is “a service marketed and sold on a standardized basis to residential customers, small businesses, and other end-user customers such as schools and libraries,” including services purchased with the support of the E-Rate Program.²¹

When Wi-Fi is deployed to an entire building, the Wi-Fi network is typically connected to the larger Internet from a central point in the building. The service that the households ultimately receive is a mass market service, even though the link from the Internet to the building may appear more similar in capacity to a commercial grade offering before it is dispersed over the Wi-Fi network to eligible households. The most logical interpretation of the statute here is that the service is a “mass market” service—the provider is supplying a service to the building that is designed for and intended as a “mass-market retail service” for use by individual households.²² Even if the Commission has any doubt about whether a higher capacity link to the building meets the technical definition of “broadband Internet access service”—at a minimum—the service at issue is the “functional equivalent” of a mass-market retail service and thus meets the relevant definition of broadband.²³

²⁰ 47 C.F.R. § 8.1(b).

²¹ *Preserving the Open Internet and Broadband Industry Practices*, Report and Order, 25 FCC Rcd. 17905, 17932 ¶ 45 (2010).

²² 47 C.F.R. § 8.1(b).

²³ *Id.* (“This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.”).

B. The Commission Should Permit Trusted Entities That Are Unaffiliated with Service Providers To Submit Verification Requests on Behalf of Households

There is little question that for unconnected households, enrolling in the National Verifier is a challenging process. Without Internet access at home, these households face significant barriers to submitting the necessary information via the National Verifier's online enrollment portal and are often forced to utilize a paper application that the GAO has found is often likely to be abandoned.²⁴ If the intended benefits are to reach unconnected households, the requirement that households interact *directly* with the National Verifier must take these obstacles into account.²⁵ With appropriate safeguards in place, the Commission should allow certain third parties unaffiliated with any service provider to assist households over the phone in submitting their information to the National Verifier's online portal. To be clear, EducationSuperHighway is not suggesting any changes to household eligibility or to the requirement that eligibility be confirmed independently by the National Verifier. EducationSuperHighway suggests only that the process of submitting the application to the National Verifier can be facilitated by an uninterested third party with the consent of the applicant household, effectively acting as the applicant's agent.

The Commission can put specific safeguards in place to ensure that this removes a key enrollment barrier and drives adoption, while maintaining program integrity. First, trusted third parties must not be service providers and must not be affiliated with service providers. The Commission found in the *EBB Order* that allowing service providers to assist with the

²⁴ *Telecommunications: FCC Has Implemented the Lifeline National Verifier but Should Improve Consumer Awareness and Experience*, U.S. Gov't Accountability Off. (Jan. 28, 2021), <https://www.gao.gov/products/gao-21-235> (last visited Dec. 8, 2021).

²⁵ *ACP Notice* ¶ 42.

verification process would pose a “risk to program integrity and potential for waste, fraud, and abuse [that] outweighs the benefit.”²⁶ In addition and consistently, trusted third parties must not receive any monetary or other commission-like benefit tied to the number of households that they assist with the verification process. In sum, they must be neutral.

Second, applicant households must provide affirmative consent to the trusted third party before the third party may begin entering information into the National Verifier portal. This consent should be documented and retained by the third party, either in written form or on a recorded line.

Third, the trusted third party must be a state or local governmental entity (including housing authorities), a school or school district, or a non-profit organization. These entities have no direct financial interest in enrolling households in the ACP. Rather, their missions are to serve the public and provide charitable services, which are entirely appropriate for this role and consistent with the purpose of the ACP to connect low-income Americans.

Fourth, trusted third parties should be required to file a document with USAC disclosing that they are acting as agents on behalf of applicant households for the purpose of submitting necessary information online via the National Verifier. This document could include an attestation that the entity (1) is not affiliated with any Internet service provider or vendor of eligible equipment, (2) describing its status and activities as a state or local governmental entity, a school or school district, or non-profit organization; and (3) affirming that it will obtain

²⁶ *EBB Order* at 4638 ¶ 54.

documented consent before submitting information to the National Verifier on behalf of any applicant and preserve that documentation for at least 10 years.²⁷

Fourth, individuals employed by or associated with these trusted organizations should be required to register in USAC's Representative Accountability Database before they begin assisting any applicants with the National Verifier process.

Finally, USAC could add a question to the verification process in the National Verifier to indicate whether the information was submitted by the applicant personally or through a trusted third party and, if the latter, identifying the trusted third party.

With these safeguards in place, any risk of waste, fraud or abuse is minimized and likely no greater than when individuals submit their information directly to the National Verifier. And the potential benefits are substantial. The effectiveness of providing this sort of assistance to unconnected households can be seen in two similar programs.

The experience of the Clarke County School District ("CCSD") in Las Vegas, Nevada, illustrates the impact of helping households become connected without having to apply directly over the Internet. CCSD partnered with the non-profit Communities in Schools ("CIS") to set up and operate a virtual family support center staffed by school district and CIS personnel that was responsible for conducting direct outreach to unconnected families and enrolling them in Cox's Connect2Compete service offering. Critical to the success of this effort was that support center staff were empowered to walk families through the entire enrollment process without the family having to interact with Cox's systems or call center. As part of this, CCSD and Cox agreed that households could meet their identity and consent to service verifications by recording a

²⁷ The Commission could also direct USAC to establish an application process to become a trusted third party, with USAC required to respond to any application within 30 days.

household's response to consent questions at the end of the call. As a result of this strategy, and the use of community based organizations to create awareness and overcome trust issues, CCSD connected over 80% of its unconnected students, the highest connection rate of any major school district.

Similarly and on a much broader scale, the Commission can look to the success of the Internal Revenue Service's Volunteer Income Tax Assistance Program ("VITA").²⁸ Created in 1969, the VITA program provides free tax preparation to underserved communities, such as low- and moderate-income individuals earning less than \$57,000 per year, persons with disabilities, the elderly and limited English proficient taxpayers. VITA services are provided by over 300 primarily non-profit, educational and government organizations and are funded by \$41 million in matching grants from the IRS. These grants are used for tax preparation operations as well as outreach to underserved communities. In addition, the IRS provides training to VITA staff members and certifies volunteer tax preparers. Collectively, VITA organizations prepare approximately four million tax returns per year. Taxpayers with income levels served by VITA typically receive a \$2,000 to \$3,000 tax refund.²⁹

Despite the amount of money at stake (approximately \$10 billion in annual refunds), VITA offers a virtual option that enables underserved households to work remotely with a VITA representative to prepare and file their tax returns without ever having to physically go to a VITA

²⁸ Free Tax Return Preparation for Qualifying Taxpayers, Internal Revenue Service, <https://www.irs.gov/individuals/free-tax-return-preparation-for-qualifying-taxpayers> (last visited Dec. 8, 2021).

²⁹ Lyle Daly, *The Average Tax Refund: A Visual Guide to Your Money Back*, The Ascent (Jan. 31, 2020), <https://www.fool.com/the-ascent/research/average-tax-refund/>. This is significantly more than the \$360 per year eligible households receive from the ACP.

office.³⁰ Taxpayers simply use their mobile phone to provide basic information and required documents to the VITA organization and opt-in to virtual tax preparation. They are then contacted by a VITA representative to prepare, review, and file their returns.³¹ The VITA organization files the return electronically, without requiring a physical signature from the taxpayer. Taxpayers provide proof of identity by taking a selfie of themselves holding their ID card and submitting it to the VITA organization preparing their tax return.

The IRS' VITA program shows that it is possible to help underserved communities successfully navigate a complex government program virtually and without meaningful waste, fraud, or abuse. The Commission should take comfort in the IRS' example and allow trusted third parties to assist with providing information to the National Verifier, including over the phone.

C. The Commission Should Invest in Direct Outreach to Unconnected Households To Increase Awareness of the Affordable Connectivity Program

As the Wireline Competition Bureau ("WCB") notes in the Public Notice, the Infrastructure Act provides that the Commission may conduct outreach efforts to encourage households to enroll in the Affordable Connectivity Program.³² The Act permits the Commission to facilitate consumer research, conduct focus groups, engage in paid media campaigns and provide grants to outreach partners. The authority to invest program resources in awareness

³⁰ See, e.g., United Way of Greater Richmond and Petersburg, Virtual VITA: Online Tax Filing Assistance, <https://www.yourunitedway.org/tax/vita/virtual-vita/> (last visited Dec. 8, 2021).

³¹ Taxpayers can also drop off documents at a VITA office if they prefer. Individual VITA organizations are given a fair degree of latitude in designing their virtual assistance programs.

³² ACP Notice ¶ 109 (citing Infrastructure Act, div. F, tit. V, sec. 60502(a)(3)(B), § 904(b)(10)(C) (2021)).

building through paid media and grants to outreach partners is a critical opportunity for the Commission to increase awareness of the ACP that it did not have during the EBB.

The Commission should focus significant outreach efforts on unconnected households to maximize the impact of these resources on adoption of the ACP and closing the broadband affordability gap. As noted above, one of the primary shortcomings of the EBB was that nearly three quarters of the households enrolled in the program already had either a home broadband connection or bundled service offering. This was not a surprise as the ISPs responsible for outreach in the EBB naturally turned first to their existing subscribers, for whom they had contact information and an existing relationship. However, if the ACP is to meet Congress' goal of closing the broadband affordability gap and achieve significantly higher adoption rates than the EBB and Lifeline, the Commission must focus outreach efforts on unconnected households.

Historically, reaching unconnected households has been difficult because no information was available to identify these households. This is no longer the case. As the result of the pandemic, over 130 ISPs, covering over 90% of the households in America, have agreed to provide the data required to identify unconnected households as part of EducationSuperHighway's K-12 Bridge to Broadband program. This public private partnership has already processed nearly three million student addresses, identifying over 400,000 unconnected households. School districts are now using this information to conduct outreach to these households to enroll them in either sponsored service programs or, increasingly, the EBB. Based on this success, EducationSuperHighway is now in the process of expanding the data exchange program beyond K-12, focusing on America's most unconnected communities, where

over 25% of households do not have a home broadband connection as well as the five million households that reside in public or affordable housing.

Armed with this data, the Commission, local governments, and trusted institutions can—and should—conduct direct outreach to these unconnected households. Given the complexity of the ACP, the National Verifier, and the enrollment process, direct outreach strategies like those discussed below are likely to be far more effective than general awareness media campaigns—particularly for those who lack home broadband connections today. There is little benefit from driving these households to websites where they can sign up for ACP, when they cannot easily get online and, in many cases, are unable to navigate the enrollment process without help.

D. The Commission Should Provide Resources to Trusted Institutions To Conduct Outreach to Unconnected Households and Assist Them in Enrolling in the National Verifier and Affordable Connectivity Program

Using program resources to provide outreach grants to trusted institutions is an investment the Commission should make from the start of the Affordable Connectivity Program. The Commission should prioritize grants to trusted institutions and organizations that will target outreach to unconnected households. The evidence from broadband adoption efforts across the country shows that this is one of the most effective ways to reach unconnected and marginalized communities where trust is a significant barrier to adoption of federal broadband subsidies. In addition, by providing these organizations with the resources to hire and train paid outreach staff, the Commission will also provide unconnected households with a resource to help them complete their National Verifier application and enroll in affordable broadband plans offered by ISPs. As discussed above, the Commission can model its grant program on the one used by the

IRS to fund over 300 organizations in the Volunteer Income Tax Assistance program for over fifty years.

Unconnected households, which often are part of historically marginalized groups, are notoriously hard to reach, struggle with language barriers, and are more likely to have experienced challenges accessing other government programs. Broad outreach alone often only adds to the confusion and should be accompanied by targeted information from trusted sources such as school districts, libraries, housing authorities, community based organizations, community health centers and local governments. Outreach should be multilingual, multi-channel (e.g., paper, digital, phone, and in person), and always use clear, unambiguous language to better inform key constituencies and answer common concerns, including those about eligibility, hidden costs, and use of personal data. Community voices are essential in establishing trust and increasing the adoption of federal broadband subsidies. By ensuring the messenger is a trusted community member or institution, it is possible to provide high-quality information and data while responding to the specific context and concerns of the hardest to reach populations. In addition, local, frequent, and ongoing engagement from those individuals and organizations that are already actively engaged in the community makes it possible to address skepticism about subsidies with stories of community members who have benefited.

Community based organizations have played a critical role in helping enroll unconnected households during the pandemic. In Chicago, community based organizations were a critical part of Chicago Public School's ("CPS") strategy for creating awareness of the school district's sponsored service program and helping unconnected families enroll in the program. As a result,

CPS was able to connect over 70% of its unconnected students compared to less than 20% in most other school districts.

A key lesson learned from the experience in Chicago as well as in other school districts and communities across the country is the importance of paid outreach staff. Community based organizations and other trusted institutions are already short-staffed simply trying to deliver their existing programs. Chicago addressed this by providing CBOs with funding to hire additional staff to focus on broadband adoption work. Similarly, the City of Oakland, CA recently provided \$100,000 in grants to fifteen community based organizations to conduct broadband adoption activities. More broadly, as communities across the country have experimented with broadband adoption efforts, they have learned that paid digital navigators are one of the most effective approaches to helping unconnected households enroll in federal broadband subsidies and low-cost broadband plans from ISPs.

IV. THE COMMISSION MUST EXPAND THE DATA IT COLLECTS AND MAKES PUBLICLY AVAILABLE TO MEASURE THE PERFORMANCE OF THE ACP AND MEET THE TRANSPARENCY REQUIREMENTS OF THE INFRASTRUCTURE INVESTMENT & JOBS ACT

The Public Notice recognizes the need for data collection and performance measures to determine the success of the Affordable Connectivity Program.³³ To measure real progress toward closing the affordability gap, the Commission must collect data and establish metrics that allow it to track how many Americans are connected because of this program.

Over the last eight years, the Commission has repeatedly demonstrated its commitment to collecting and publicly releasing detailed data on how funds in the programs it administers are used. This data enables the Commission, policymakers and other stakeholders to assess the

³³ *ACP Notice* ¶¶ 117-120.

effectiveness of its programs, identify opportunities for improvement and track the progress of the Commission's efforts to close the digital divide. It also provides critical information that is used by stakeholders to lower the cost of broadband through price transparency.

The Commission should be commended for continuing its commitment to open data in its rollout of the Emergency Broadband Benefit Program. In a short period of time, the Commission has made a variety of useful summary data available about EBB enrollments, claims and eligibility verification. This data has enabled stakeholders to assess EBB adoption rates by geographic region and broad service type categories, kept stakeholders informed of funding availability, and allowed stakeholders to assess the extent to which available enrollment methods are contributing to EBB adoption.

With the transition from the EBB to the ACP, however, the Commission must expand the data it collects and makes publicly available to measure the performance of the ACP and meet the transparency requirements of the Infrastructure Act. Because the goal of the ACP is to close the digital divide by closing the broadband affordability gap, the Commission will need to measure and report the number of unconnected households that become connected as a result of enrolling in the ACP.

The Commission has a long history of establishing performance goals and measures along these lines. For example, in establishing the rules of the Emergency Connectivity Fund Program, the Commission adopted “as our first goal for the Emergency Connectivity Fund Program helping to meet the need for connected devices and broadband services to facilitate remote learning during the COVID-19 pandemic for students, school staff, and library patrons.”³⁴

³⁴ *Establishing Emergency Connectivity Fund to Close the Homework Gap*, Report and Order, 36 FCC Rcd. 8696, 8703, ¶ 16 (2021) (“ECP Order”).

To that end, the Commission adopted “two metrics to measure the success of the Emergency Connectivity Fund Program in addressing students’, school staffs’, and library patrons’ otherwise unmet need for connected devices and broadband connectivity” and agreed “with commenters that recommend we collect information about the number of connected devices and broadband connections that are used to connect students, school staff, and library patrons through the Emergency Connectivity Fund Program and release this data publicly.”³⁵

EducationSuperHighway urges the Commission to take a similar approach of setting performance goals and measures for the Affordable Connectivity Program.

In addition, the Commission will need to collect and make public data that allows it to determine whether ACP subscribers are receiving broadband services that enable telework, remote learning and telehealth. To comply with the transparency requirements of the Infrastructure Act, the Commission will need to provide detailed open data on the price and subscription rates of each internet service offering of a participating provider in the ACP.³⁶

To meet these requirements, the Commission should follow the model it has implemented for the E-rate program and publish an anonymized, open data set of all ACP enrollments. This data set should include the following information for each ACP enrollment:

1. Date of subscriber enrollment in the ACP
2. Method of verification (Lifeline, EBB, National Verifier, Alternative Verification Method etc.)
3. Applicant selected eligibility categories (if using National Verifier)
4. Location of applicant (census block or 5 digit zip code)

³⁵ *Id.* at 8703 ¶ 17.

³⁶ Infrastructure Act at div. F, tit. V, § 60502(c)(1).

5. Service Provider (SAC) requesting ACP for subscriber
6. Existing or new subscriber to the service provider
7. Specific service plan type subscribed to (DSL, cable modem, fiber, mobile hotspot, mobile phone based bundled service, fixed wireless, satellite)
8. Upload and download speeds of service plan subscribed to
9. Cost of service plan subscribed to—including promotional vs long term pricing
10. Device provided (if any)
11. Amount of device subsidy claimed

All of this information, with the exception of device information and whether a subscriber is a new or existing subscriber of the service provider, is required in the Consumer Broadband Labels required in Section 60504 of the Infrastructure Act. As a result, publishing the open data set will not be an undue burden on either the Commission or the service providers that must provide this data.

V. CONCLUSION

The Infrastructure Act and implementation of the ACP give the Commission a unique opportunity to build on the work done in the EBB to bring broadband to low-income households. With thoughtful and targeted changes to the EBB, the Commission can make substantial progress to connect the far-too-many unconnected households in our country. Encouraging the use of ACP funds to support Wi-Fi in low-income buildings, making the National Verifier more accessible to the unconnected, empowering outreach to our low-income communities, and measuring progress will all help to fulfill the goals of the ACP and will serve the public interest in closing the digital divide.

Respectfully submitted,

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